

2021CI10201

Cause No. _____

SUSAN MATA and ALMA ADAME,

Plaintiffs,

V.

SHINING STAR TRANSPORTATION,
INC., and MARCUS M. PRESTON, JR.,

Defendants.

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IN THE DISTRICT COURT

Bexar County - 225th District Court

_____ JUDICIAL DISTRICT

BEXAR COUNTY, TEXAS

PLAINTIFFS' ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

Plaintiffs file this Original Petition, complaining of Defendants Marcus M. Preston, Jr., and Shining Star Transportation Inc., and for cause of action shows the following:

I.

DISCOVERY CONTROL PLAN

Plaintiffs intend to conduct discovery pursuant to a level three (3) discovery control plan.

II.

PARTIES

Plaintiff Susan Mata is an individual residing in Bexar County, Texas.

Plaintiff Alma Adame is an individual residing in Bexar County, Texas.

Defendant Marcus M. Preston, Jr. resides in Los Angeles County, California. At all times material hereto, Preston was operating a motor vehicle on a public roadway in Texas. Accordingly, he may be served with process by serving: J. Bruce Bugg, Jr., Chairman, Texas Transportation Commission, 125 E. 11th Street, Austin, Texas 78701-2483. Upon request and payment of \$25, together with two (2) copies of the citation and petition, the Chairman of the Texas Transportation Commission shall forward same to:

Marcus M. Preston, Jr.
5799 Golden Drive
Lancaster, California 93536.

Defendant Shining Star Transportation Inc., is a motor carrier licensed by the United States Department of Transportation (US DOT No. 2425410, MC00835687) and it may be served with process by serving its agent for service in Texas, Diane Fonseca, 2591 Dallas Parkway, Suite 300, Frisco, Texas 75034.

III.

VENUE

Venue is proper in Bexar County because all or a substantial part of the events or omissions giving rise to this claim occurred in Bexar County, Texas. Texas Civ. Prac. & Rem. Code § 15.002(a)(1).

IV.

FACTS

Defendant Shining Star Transportation, Inc. (“Shining Star”) hired, retained, supervised, and qualified Marcus M. Preston, Jr. (“Preston”), to operate a commercial motor vehicle. At all times relevant to this lawsuit, Preston was acting in the course and scope of his actual and/or statutory employment for the motor carrier. Defendant Marcus Mario Preston, Jr.'s job duties included operating motor vehicles.

On May 29, 2020, Preston was operating a tractor trailer in San Antonio, Texas, on behalf of Shining Star. Preston was driving Westbound on the access road of SW Loop 410, near the Poteet Jourdanton Freeway, when he collided with Plaintiffs’ vehicle as he attempted to maneuver a left turn in heavy traffic. Plaintiffs were seriously injured in the crash. Based on the circumstances surrounding the crash, it is apparent that Preston was fatigued and/or distracted by an electronic device or something else, and/or he was not properly instructed how to manage the space around the tractor trailer while maneuvering a turn.

V.

CAUSE OF ACTION

Defendant Preston was negligent. Specifically, Defendant Preston failed to act as a reasonable and prudent operator of a tractor trailer when he maneuvered the right hand turn on SW

Loop 410, in San Antonio. Based on the facts of this wreck, it appears that Preston may have been fatigued or distracted by an electronic device or something else. He was distracted and/or failed to manage the space around his tractor trailer and he crashed into Plaintiffs' vehicle. As a direct and proximate result of this negligence, Plaintiffs sustained personal injuries. Defendant Shining Star is vicariously liable for Preston's negligence under the doctrine of respondeat superior.

Defendant Shining Star was negligent. Specifically, Shining Star was negligent in its qualification, hiring, training, supervision, and retention of Preston. As a direct and proximate result of this direct negligence on the part of Shining Star, Plaintiffs sustained personal injuries.

VI.

DAMAGES

Plaintiffs seek to recover the following elements of damages, which were proximately caused by Defendant's negligence:

1. Medical care expenses, past and future;
2. Lost wages and loss of earning capacity, past and future, as to Susan Mata;
3. Physical impairment, past and future;
4. Physical pain, past and future;
5. Mental anguish, past and future; and
6. Disfigurement, past and future.

Plaintiffs also seek to recover prejudgment interest, post-judgment interest, and court costs. Plaintiffs' damages, inclusive of attorneys fees, exceed the Court's jurisdictional minimum and exceed \$75,001.00. Pursuant to Texas Rule of Civil Procedure 47(c), Plaintiffs avers that they seek monetary relief of over \$1,000,000.00.

WHEREFORE, PREMISES CONSIDERED, Plaintiffs pray that citation be issued and Defendants be served, and upon trial on the merits the Court enter judgment for Plaintiffs and against Defendants, jointly and severally, for actual damages, together with prejudgment interest, postjudgment interest, and court costs.

Respectfully submitted,

/s/ Sonia Rodriguez

Texas Bar No. 24008466

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PLAINTIFFS REQUEST A JURY TRIAL.